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SENATE BILL 339 By
Cooper

HOUSE BILL 491
By Whitson

AN ACT to amend Tennessee Code Annotated, Title 56, relative to patient access to eye care services covered under health insurance plans.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Patient Access to Eye Care Act".

SECTION 2. As used in this act:

(1) "Covered person" means any individual or eligible dependent covered under a health benefits plan.

(2) "Covered health care services" means those health care services which an insurer is obligated to pay for or provide to a covered person under a health benefits plan.

(3) "Credentials" or "credentialing" means an insurer's authorization to an eye care provider to provide eye care and vision care services to covered persons under a health benefits plan operated by that insurer.

(4) "Eye care and vision care services" means any health care services and materials related to the care, examination, diagnosis, treatment, and management of conditions and diseases of the eye and related structures.

(5) "Eye care provider" means any physician or optometrist who is properly licensed under Tennessee Code Annotated, Title 63, Chapter 6, 8, or 9.

(6) "Health benefits plan" means any public or private health plan, program, policy, subscriber agreement, or contract (whether a comprehensive plan where all services are provided or a combination of separate plans where services are provided) implemented in the state of Tennessee which includes or may include payment, reimbursement (including capitation) or financial compensation for the provision of covered health care services to covered person, but does not include workers' compensation coverage or reimbursement or policies.

(7) "Insurer" means a licensed insurance company, health maintenance organization, managed care contractor, or any other legal entity that operates a health benefits plan regulated under Title 56, Chapter 7, 19, 25, 26, 27, 28, 29, 31, 32, or 51.

SECTION 3. When a health benefits plan includes eye care and vision care services among its covered health care services, the insurer operating the health benefits plan:

(1) Shall permit a covered person to obtain eye care and vision care services from any eye care provider who is credentialed by the insurer under that health benefits plan;

(2) Shall not set copayments, professional fee reimbursement, or other financial compensation for the same eye care or vision care service in a manner that discriminates against a class of eye care providers;

(3) Shall not promote or recommend any individual eye care provider or class of eye care providers by any method or means; and

(4) Shall ensure that all covered persons have direct access to the credentialed eye care provider of their choice independent of, and without referral from, any other provider or entity.

SECTION 4. Every health benefits plan which includes eye care and vision care services among its covered health care services shall utilize a system for credentialing eye care providers who wish to provide eye care and vision care services to covered persons under that health benefits plan. The credentialing system shall comply with each of the following requirements:

(1) Any eye care provider within the geographic service area of a health benefits plan may apply to the insurer which administers that health benefits plan to be credentialed to provide covered eye care and vision care services to covered persons under that health benefits plan.

(2) Except for the reasons set forth in subdivision (3), an insurer shall not fail or refuse to credential an eye care provider who applies for credentials and who states in writing that such provider will accept the health benefits plan's operating terms and conditions, schedule of fees and expenses, utilization regulations, and quality standards. An insurer shall not require that an eye care provider hold hospital staff privileges in order to obtain credentials to provide non-hospital-based eye care and vision care services covered under that health benefits plan.

(3) If an insurer makes a written determination that an eye care provider has a history of unprofessional conduct or pattern of malpractice, the insurer may refuse to credential that eye care provider.

(4) The insurer shall ensure that an adequate number of eye care providers are credentialed and available to guarantee reasonable accessibility, timeliness of care, convenience, and continuity of care to covered persons.

SECTION 5. Each credentialed eye care provider shall be allowed by the insurer to provide to a covered person the full range of eye care and vision care services within the scope of that eye care provider's license.

SECTION 6. Nothing in this act shall be construed to require a health benefits plan to include eye care and vision care services among its covered health care services.

SECTION 7.

(a) Any eye care provider or a covered person under a health benefits plan who is adversely affected by a violation of this act shall have the right to bring a civil action in a court of competent jurisdiction for injunctive relief against an insurer which has violated any provision of this act. In addition to injunctive relief, the court shall allow a prevailing plaintiff to recover reasonable attorney's fees and costs.

(b) An eye care provider who is aggrieved by a decision of an insurer not to grant credentials to that provider shall have the right to challenge that decision in the chancery court of the county in which the eye care provider has the provider's primary office. The court shall determine whether the insurer's failure or refusal to credential the provider was properly based upon one (1) of the reasons prescribed in Section 4.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9.

(a) Nothing contained in this act shall be construed or interpreted as applying to the TennCare programs administered pursuant to waivers approved by the United States department of health and human services or to enrollees in the state sponsored health insurance plan for state employees.

(b) Nothing contained in this act shall be construed or interpreted as applying to enrollees in any health insurance plan sponsored by a county government or municipality for such local government's employees.

SECTION 10. This act shall take effect July 1, 2001, the public welfare requiring it.